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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 PAUL TETERS,

11 Plaintiff,

12 v.

13 WASHINGTON STATE, et al.,

14 Defendants.

CASE NO. 3:18-cv-05481-RBL-JRC

ORDER ADOPTING REPORT AND
RECOMMENDATION

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16 The Court, having reviewed the Report and Recommendation of Magistrate Judge J.
17 Richard Creatura, any objections to the Report and Recommendation, and the remaining record,
18 does hereby find and **ORDER:**

19 (1) The Report and Recommendation is **ADOPTED**.

20 (2) Defendants' motion to dismiss (Dkt. 21) is **GRANTED IN PART AND**
21 **DENIED IN PART.**
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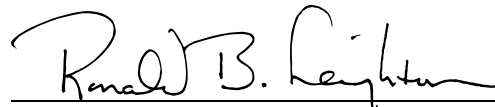
(3) The following claims brought against defendants Washington State, Abraha, Burt, Cruz, DeMark, Kenny, and Palmer are **DISMISSED WITHOUT PREJUDICE** and plaintiff is granted leave to amend:

- (a) claims for declaratory and injunctive relief against defendants Washington State, Abraha, Burt, Cruz, DeMark, Kenny, and Palmer;
- (b) claims against defendants Washington State, Abraha, Burt, Cruz, DeMark, Kenny, and Palmer brought under the Americans with Disabilities Act and Rehabilitation Act;
- (c) claims against defendants Washington State, Abraha, Burt, Cruz, Kenny, and Palmer under § 1983 for Eighth Amendment violations;
- (d) claims against defendants Washington State, Kenny, and Palmer under Washington State law for medical malpractice; and
- (e) claims against defendants Abraha, Burt, Cruz, DeMark, Kenny, and Palmer in their official capacities for medical malpractice.

The Clerk shall send copies of this Order to plaintiff and to Magistrate Judge Creatura.

IT IS SO ORDERED.

DATED this 2nd day of May, 2019.



Ronald B. Leighton
United States District Judge